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Via ECF

September 27, 2019

Hon. Alan S. Trust
U.S. Bankruptcy Judge
U.S. Bankruptcy Court
Eastern District of New York
Alfonse M. D'Amato Federal Courthouse
290 Federal Plaza,
Central Islip, New York 11722

Re: *In re: Absolut Facilities Management, LLC, et al.*, No. 19-76260-ast

Dear Judge Trust:

We represent Absolut Facilities Management, LLC and its affiliated debtor entities (collectively, the "Debtors"), as debtors-in-possession in the above-referenced chapter 11 cases.

Pursuant to the Court's instructions (Dkt. No. 77), please find enclosed the Debtors' closure plan for the facility at Orchard Park, filed with the New York State Department of Health on August 15, 2019.

We thank the Court for its attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Schuyler G. Carroll".

Schuyler G. Carroll
Partner

Absolut Center for Nursing and Rehabilitation at Orchard Park, LLC
Operated by
Absolut Center for Nursing and Rehabilitation at Orchard Park, LLC
6060 Armor Rd
Orchard Park, NY 14127
716-662-4433
August 15, 2019

1. New York State Department of Health-Regional Office Notification

• Verbal Notification

In accordance with 10 NYCRR 425.3(a), Leanne Kontogiannis of Hinman Straub P.C. called Gloria Duffey, Program Manager, NYS DOH Western (Buffalo) Regional Office , on August 15, 2019 to provide verbal notification of intent to close Absolut Center for Nursing and Rehabilitation at Orchard Park, LLC (Absolut at Orchard Park).

• Written Notification

Written notification of the closure was e-mailed by Leanne Kontogiannis of Hinman Straub P.C. to Gloria Duffey, Program Manager, NYS DOH Western (Buffalo) Regional Office, on August 15, 2019.

2. Fiscal Intermediary Notification

Cheryl George, Accounts Receivable Manger, will be responsible for contacting the facility's Fiscal Intermediary immediately to request a copy of the 855A form that must be completed following the last resident's discharge.

3. Target Relocation Date, Facility Capacity and Current Census

- Target Closure Date: November 15, 2019
- Facility Capacity: 202
- Current Census: 180

4. Name, title, telephone number and e-mail address of the individual designated as the provider's contact person throughout the closure process.

Name: Peter Fadeley

Title: Administrator

Telephone number: 716-662-4433 (c) 716-344-7630

E-mail address: pfadeley@absolutcare.com

5. Name, title, telephone number and e-mail address of the individual responsible for coordinating closure, if different from the individual identified in #4. If more than one individual has been assigned to separate closure duties (e.g., discharge coordination, directing clinical care, media contacts, equipment disposal, medical record disposition etc.) all names and contact information must be included.

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• **Discharge Coordination/Clinical Care**

Name: Sandra Grawe
Title: Director of Nursing
Telephone Number: (office): (716) 662-4433; (mobile) (716) 713-4910
E-mail address: SGrawe@absolutcare.com

• **Media Contact**

Name: Chris Luterek
Title: VP, Marketing, Admissions & Business Development
Telephone Number: (716) 343-0108
E-mail address: CLuterek@absolutcare.com

• **Equipment Disposal**

Name: Bob Brooks
Title: VP, Environmental Services
Telephone Number: (716) 713-5000
E-mail address: RBrooks@absolutcare.com

• **Medical Records Disposition**

Name: Tracy Sullivan
Title: QA Coordinator
Telephone number: (716) 465-1381
E-mail address: TSullivan@absolutcare.com

6. A narrative description of the proposed plan to notify residents, next of kin, sponsors, staff, physicians and Medicaid Managed Long Term Care providers of the closure plan. This should include written notification and meetings. Include anticipated dates and times of meetings, if available at the time of submission of the proposed plan, so that DOH staff may attend. Your DOH regional office will confirm dates and times of meetings with you upon approval of the closure plan. Include a draft written notification for each party in an appendix.

Upon approval of the notification plan, the following notifications will be provided:

• Residents/Families/ Legal Representatives

Immediately upon Department of Health approval of the closure plan, a meeting with residents and families will be convened to verbally notify residents of the facility closure. Meetings will take place throughout the closure process at times determined based upon resident and family member preferences. DOH will be

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notified prior to all planned meetings with residents and staff. On the same day as the initial meeting, written notifications regarding the closure will be provided to residents, families and legal representatives (Attachment 1). Written notifications will be hand-delivered to residents and family members by the social workers immediately following the meeting. Certified letters will be sent to those unable to attend the initial meeting or subsequent meeting with a social worker. Residents will also be provided with the contact information for the Regional Ombudsman.

Additionally, the following meetings will be scheduled with residents, families and legal representatives:

- Social workers will contact the family members of cognitively impaired residents to discuss any questions or concerns the family members may have.
- Individual, in-person meetings will be scheduled as needed to answer questions about the facility closure.

Absolut at Orchard Park has completed a survey of empty beds in the region with an eye towards location of families and has determined that there is ample capacity to absorb all the residents. Social workers from the facility will follow-up with discharged residents for adjustment and transition within thirty (30) days in order to ensure continuity of care. Katie Tsakos, Social Work Director, will be responsible for confirming that this process has been completed.

- Referral Notifications

Referral sources and hospital discharge planners will be contacted to inform them of the facility's closure. Calls will be followed by written notification (Attachment 2).

- Medical Provider Notifications

Written notification regarding the facility closure will be provided to residents' primary care physicians and to other medical consultants providing services to residents (Attachment 3).

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- Staff Notification

All employees will receive verbal and written notification regarding the facility's closure (Attachment 4).

- Vendor Notification

All vendors will receive written notification of the facility's closure (Attachment 5).

7. If the facility provides services such as Adult Day Care Programs, clinics, Meals-on Wheels etc. for individuals other than nursing home residents, a narrative description of the plan to discontinue those services. The plan should include referrals to alternate programs for registrants/customers.

Absolut at Orchard Park only provides services to nursing home residents.

8. A description of the plan to manage media contacts initially and throughout the process. Media releases should be coordinated with the DOH prior to release.

It is not anticipated that any media releases regarding Absolut at Orchard Park's closure will be issued. However, in the event it is determined that a media release is necessary, such release will be coordinated with DOH prior to release by the facility's media contact, Chris Luterek, VP of Marketing, Admissions and Business Development; 716-343-0108. In the event of media requests, Absolut at Orchard Park will coordinate all media contacts with DOH prior to release.

9. A description of the plan to involve the facility's Ombudsman. The plan shall include, at a minimum, ensuring the facility's Ombudsman is: aware of the closure; notified of and has the opportunity to attend the resident and family meetings; copied on all discharge notices; invited to participate, with authorization, in discharge planning conferences to advise and support the resident; able to advocate and consult on problems and suggest possible solutions; and invited to follow-up with residents after having moved.

Peter Fadeley will advise the facility's Ombudsman of the facility closure, by phone and e-mail, upon DOH approval of the closure plan. Peter Fadeley will: (i) invite the Ombudsman to resident and family meetings; (ii) provide the Ombudsman with copies of all discharge notices; (iii) encourage the Ombudsman to advise and support the residents;

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(iv) encourage the Ombudsman to advocate on problems and suggest possible solutions; and (v) encourage the Ombudsman to follow-up with residents following discharge.

10. The plan to discontinue admissions in accordance with 42 CFR Section 483.79(l)(2).
Ensure that the facility does not admit any new residents on or after the date on which such written notification (the closure plan) is submitted. Include the plan to notify all referring institutions.

Admission staff will be notified to cease admissions of new residents effective as of the date the closure plan is submitted to Gloria Duffey, Program Manager, NYS DOH Western (Buffalo) Regional Office. All referring institutions will be advised of Absolut at Orchard Park's closure via telephone and written notification upon DOH approval of the closure plan. Admission of new residents will cease effective August 15, 2019.

11. The plan to identify appropriate placement for current patients/residents, including:
A. The process to identify all residents who are interested in community placement and make a referral for them to the current Money Follows the Person contractor, New York Association on Independent Living (NYAIL).

Absolut at Orchard Park engages in an on-going review of all residents' conditions to ensure that the level of care they are receiving is appropriate for their needs. The conditions of some residents, particularly those receiving rehabilitation services, may change to such a degree that a lower acuity setting is more appropriate. Absolut at Orchard Park will have weekly meetings to discuss potential discharges. Discharge planners work with residents determined to be appropriate for discharge to explore options for alternative placement in the community.

B. The process to identify current patients/residents who are participants in Medicaid Managed Long Term Care (MLTC) and who their MLTC plans are. The MLTC plans must be included in identifying future placement options for residents/patients. The facility must develop a plan to involve the MLTC plan and to ensure patients/residents who participate in MLTC and their families are aware of all placement options and potential impact on relocation, if, for example, the resident's plan does not have arrangements with a nursing home which the resident is considering.

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The facility has a readily available list of all residents who participate in MLTC. The MLTC plans as well as the residents and their families will be notified of the planned closure and the facility will work with the plans on the various options available.

C. The process for making determinations regarding bed availability at other area facilities, providing information about other facilities to patients/residents/families, insuring that the wishes of current patients/residents/families are respected when placement decisions are made, and insuring that concerns such as geographic location, availability of/access to public transportation, type of facility/provider, ability to meet the resident's medical and behavioral health needs, etc. are addressed in identifying future placement options for residents/patients.

Peter Fadeley and social workers from Absolut at Orchard Park will meet with each resident to notify them of the closure plan. Residents will be provided with information regarding alternative long-term placement. Absolut at Orchard Park will solicit bed offers from facilities that the residents indicate as their preference. Peter Fadeley and social workers will maintain ongoing communication with residents to ensure that their wishes and placement decisions are respected. Social workers will be available to assist residents and their families and legal representatives with this process. Social workers will provide residents with information regarding alternative placement through internet research (social worker and resident engaging in the process together) and through the distribution of promotional and/or informational materials to residents. If requested by residents and/or their family members, Absolut at Orchard Park will invite representatives from other facilities to speak with residents regarding options for placements in their facilities, and if necessary, arrange tours in collaboration with the prospective receiving facility

12. The plan to ensure that records including current assessments, care plans, medication and treatment records, histories, discharge summaries, identifying information etc. are transferred in a secure manner with residents/patients who are being relocated.

Records, including current assessments, care plans, medication and treatment records, histories, discharge summaries, identifying information will be transferred with residents

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at the time of transfer. Medical records will be transferred in a sealed and confidential envelope.

13. The plan to ensure that resident/patient belongings will be secured and transferred.

Resident belongings will be secured in appropriate packaging and labeled with residents' names and room numbers in the receiving facility. An inventory of resident belongings will be maintained to verify all belongings have been transferred to the receiving facility. Staff accompanying residents to the receiving facility will be responsible for ensuring that resident belongings are transported along with residents, storing belongings in their new rooms and identifying any missing items and initiating the process for locating missing items.

14. The plan for allocation and security of resident and resident council funds. The facility must complete a full accounting of resident funds, on a resident-specific basis, prior to closure. The plan must include a signed attestation by the operator that the accounting is accurate. The plan should describe how resident funds are being protected. The plan must also include a signed attestation that all resident funds are secure. The accounting should be sent to the DOH regional office upon request. The attestations (2) must be included in the closure plan submitted to DOH for review. Resident funds should be sent to the receiving facilities when residents are transferred.

A full accounting of resident funds, on a resident-specific basis, will be performed prior to closure. Signed attestations from the operator will be submitted to Gloria Duffey, Program Manager, NYS DOH Western (Buffalo) Regional Office, advising that: (i) the accounting is accurate; and (ii) that all resident funds are secure. Within 30 days of discharge, each resident will be issued a check in the full amount of their balance on record with the facility's patient fund accounts. Administration will work with the resident council to ensure that resident council funds are disposed of in a manner beneficial to all residents prior to their departure from the facility.

15. The plan to determine the appropriate method of transport to be utilized for patients/residents.

The appropriate method of transport will depend on the residents' TALs (Transportation Assistance Levels). Residents will be assessed to determine the appropriate method of transport. Residents with complex conditions will be transported via ambulance. All other residents will be transported via ambulettes, vans and cars, as appropriate. Facility staff will accompany residents during transport.

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16. The plan for follow-up after patients/residents are relocated. Follow-up should occur for a minimum of thirty (30) days after discharge and include follow-up for relocation stress syndrome/transfer trauma. The plan should include communication with receiving facilities throughout the follow-up process.

Social workers will be responsible for confirming that follow-up on residents discharged to another facility is completed. Social workers will follow-up with discharged residents for adjustment and transition for thirty (30) days in order to ensure continuity of care.

17. The plan for disposition of the building and its contents following the discharge of all patients/residents.

The building is leased by the operator. The contents of the nursing home will be sold at a later date.

18. The plan to dispose of drugs and biologicals, chemicals, radioactive materials.

Facility staff will work with the Department of Health to determine appropriate procedure for disposal of drugs, biologicals, chemicals and radioactive materials. Resident medications (if paid for by the residents or residents' insurance) will be transferred with residents upon discharge. Controlled substances will be sent with the documentation that pertains to each medication and will be transported per the appropriate guidelines.

19. The plan for appropriate record retention. 10 NYCRR 401.2(i) requires Department approval of the plan for maintenance, storage and safekeeping of resident records. The plan should provide adequate safeguards for such records and provide ready access to residents and their physicians. 10 NYCRR 415.22 mandates that clinical records will be retained for six years from the date of discharge or death or for residents who are minors, three years after the resident reaches the age of 18. 10 NYCRR 86-2.7 requires that all fiscal and statistical reports filed by the facility with the Department, including underlying books, records and documentation, to be kept and maintained for at least six years from the date of filing or the date upon which they were to be filed, whichever is later. The plan should identify the location of record storage, the individual responsible for ensuring compliance with contact information, and a description of how former residents, designated representatives or other appropriate parties may request copies of records.

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All records, including those pertaining to residents as well as all fiscal and statistical reports filed by the facility, will be stored in hard copy and electronic copy at Absolut Care corporate offices located at 300 Gleed Avenue, East Aurora, NY 14052, and maintained in accordance with the standards specified in 10 NYCRR 415.22 and 10 NYCRR 86-2.7, respectively. Appropriate safeguards are in place to maintain integrity of the storage. Israel Sherman, Principal of Absolut Facilities Management, LLC, is responsible for ensuring records are maintained in accordance with required regulatory standards. Former residents and/or their designated representatives or other appropriate parties may request copies of records by contacting the facility's Medical Records Department in writing. Residents and/or family members can obtain copies of records by submitting a written request to Lisa Mattucci, VP of Human Resources & Risk Management, via e-mail to LisaM@billitco.com or letter to Lisa Mattucci, c/o Absolut Care, 300 Gleed Avenue, East Aurora, NY 14052. Record requests are generally processed within 14 business days of receipt.

20. The plan to ensure that appropriate documentation is available to staff related to payroll information, health insurance, recertification of CNAs etc. See the guidance provided under 10 NYCRR 86-2.7 in item 19. This documentation must be kept and maintained for at least six years from the date of filing, or the date upon which they were to be filed, whichever is later.

Payroll and health insurance information is currently stored in electronic file. Copies of CNA certifications are generally kept in employees' files. Employee files, both active and inactive, will be maintained at Absolut Care corporate offices located at 300 Gleed Avenue, East Aurora, NY 14052, in accordance with the applicable regulatory requirements. Staff can obtain a copy of their file by submitting a written request to Lisa Mattucci, VP of Human Resources & Risk Management, via e-mail to LisaM@billitco.com or letter to Lisa Mattucci, c/o Absolut Care, 300 Gleed Avenue, East Aurora, NY 14052. Former staff can obtain copies of their files by contacting Lisa Mattucci, VP of Human Resources and Risk Management; 716-687-2623.

21. The plan should include very specific reference to how the facility will establish and maintain ongoing communication with DOH, weekly at a minimum, throughout each milestone of the closure process.

Weekly telephone conferences will be conducted once approval is secured. Date and times will be scheduled at a time that is mutually convenient.

22. The plan to ensure adequate staffing throughout the closure process, and to ensure that staff have the information regarding other employment opportunities.

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Staff will be maintained at the same levels throughout the closure process. If necessary, the facility will utilize agency staffing from Maxim Healthcare Services and Towne Nursing Health Care Staffing Agency. A market study has indicated that there is robust demand for healthcare workers and Absolut at Orchard Park believes that all staff will find employment. Employment opportunities will be available at Absolut Center for Nursing and Rehabilitation at Aurora Park, LLC, Chautauqua Nursing & Rehabilitation Center, Autumn View Health Care Facility, LLC, Seneca Health Care Center, Garden Gate Health Care Facility, Harris Hill Nursing Facility, LLC, North Gate Health Care Facility and Father Baker Manor. Absolut at Orchard Park's Human Resources Department will be on site at the facility to assist with the application process for available positions within other Absolut facilities. Additionally, Absolut at Orchard Park will host job fairs on site at the facility to provide staff with the opportunity to explore additional employment opportunities.

23. When the last resident has been discharged from the facility, the individual(s) responsible for carrying out the closure plan should meet with the appropriate DOH regional office to demonstrate that all aspects of the closure plan have been successfully completed.

When the last resident has been discharged from the facility, Israel Sherman will meet with Gloria Duffey, Program Manager, NYS DOH Western (Buffalo) Regional Office, to demonstrate that all aspects of the closure plan have been successfully completed.

ON THE DAY AFTER THE LAST RESIDENT IS DISCHARGED:

1. The facility will complete the CMS 855A and forward it to the Fiscal Intermediary with a copy to Gloria Duffey, Program Manager, NYS DOH Western (Buffalo) Regional Office.
2. The original copy of the facility's Operating Certificate will be returned to the Gloria Duffey, Program Manager, NYS DOH Western (Buffalo) Regional Office, within 48 hours following the last resident's discharge.

Absolut Center for Nursing and Rehabilitation at Orchard Park, LLC
ATTACHMENT 1
RESIDENT NOTIFICATION

Date

Dear Resident,

Absolut Center for Nursing and Rehabilitation at Orchard Park, LLC will be closing effective November 15, 2019.

Social workers will meet with you to discuss options and your preferences for alternative long term placement. Once you have made a decision regarding your discharge options, social workers will assist you in securing alternative placement to ensure relocation prior to November 15, 2019. Every effort will be made to minimize disruption to you during the relocation process and ensure a smooth transition.

The Regional Ombudsman, Lisa Newman, will be available to provide assistance to you throughout the relocation process and can be reached at (716) 817-9222.

Please contact me at (716) 687-2823 if you have any questions.

Sincerely,

Lorrane Dotter
Chief Operating Officer, Absolut Facilities Management

Absolut Center for Nursing and Rehabilitation at Orchard Park, LLC
ATTACHMENT 2
REFERRAL SOURCE/HOSPITAL DISCHARGE PLANNER NOTIFICATION

Date

Dear Referral Source/Hospital Discharge Planner,

Absolut Center for Nursing and Rehabilitation at Orchard, LLC Park will be closing effective November 15, 2019. Consequently, the facility will no longer be accepting referrals.

Please contact me at 716-343-0108 if you have any questions.

Sincerely,

Chris Luterek
Vice President
Marketing, Admissions & Business Development

Absolut Center for Nursing and Rehabilitation at Orchard Park, LLC
ATTACHMENT 3
PHYSICAN NOTIFICATION

Date

Dear Physician/Service Provider,

Absolut Center for Rehabilitation and Nursing at Orchard Park, LLC will be closing effective November 15, 2019. The facility will work with residents and their family members to find alternative placement that best meets the needs and preferences of the residents. We will notify you of the date and location of alternative placement and arrange for the resident's medical record to be provided to the facility to which the resident is discharged.

We will make every effort to ensure that the needs of all of the facility's residents are met. Throughout the transition process, we will ensure that services for all residents will continue without interruption.

Please contact me at (716) 343-0108 if you have any questions.

Sincerely,

Chris Luterek
VP, Marketing, Admissions & Business Development

Absolut Center for Nursing and Rehabilitation at Orchard Park, LLC
ATTACHMENT 4
EMPLOYEE NOTIFICATION

Date

Dear Employee:

Absolut Center for Nursing and Rehabilitation at Orchard Park, LLC (Absolut at Orchard Park) will be closing effective November 15, 2019.

Employment opportunities will be available at Absolut Center for Nursing and Rehabilitation at Aurora Park, LLC, Chautauqua Nursing & Rehabilitation Center, Autumn View Health Care Facility, LLC, Seneca Health Care Center, Garden Gate Health Care Facility, Harris Hill Nursing Facility, LLC, North Gate Health Care Facility and Father Baker Manor. Absolut at Orchard Park's Human Resources Department will be available to assist with the application process for available positions at these facilities. Additionally, Absolut at Orchard Park will host job fairs on site at the facility to provide staff with the opportunity to explore additional employment opportunities. Notification regarding upcoming job fairs will be provided by the Human Resources Department.

Please contact me at 716-687-2623 if you have any questions.

Sincerely,

Lisa Mattucci
Vice President
Human Resources & Risk Management

Absolut Center for Nursing and Rehabilitation at Orchard Park, LLC
ATTACHMENT 5
VENDOR NOTIFICATION

Date

Dear Vendor:

Absolut Center for Nursing and Rehabilitation at Orchard Park, LLC will be closing effective November 15, 2019.

Please contact me at (716) 687-2823 if you have any questions.

Sincerely,

Lorrane Dotter
Chief Operating Officer
Absolut Facilities Management

Abbreviation	Title
AETN	Aetna
BCBS	Blue Cross/Blue Shield
ELDR	Elderplan Medicare
FIDA	Fidelis Medicare
FIDM	Fidelis Medicaid
H+M	Healthplus/Amerigroup Medicaid
HEA	Healthfirst Medicare
HEM	Healthfirst Medicaid
HF	Homefirst
HIPA	HIP/VIP Medicare
HOIN	Hospice Insurance
INVE	Insurance Vent
MA	Medicaid
MC	Medicare
MCB	Medicare Bundle
MCV	Medicare Vent
METM	Metroplus Medicaid
MV	Medicaid Vent
MVP	Medicaid Pending Vent
NFLT	No Fault
OINS	Other Insurance
PMA	Pending Medicaid
PVT	Private Pay
UHCA	United Medicare
UHCM	United Community Medicaid
VNSM	VNS Medicaid
WELM	Wellcare Medicaid